

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

20 MAY 13 AM 9:58

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY  CLERK

DELL INC.,

Plaintiff,

CAUSE NO.:
A-16-CV-00641-SS

-vs-

RAJ MISHRA, TECH FIXING
CENTER LLC, SAMEER SHAIKH,
MANISH DAS, ABDUL KANCHWALA,
VISION BPO PVT. LTD., MS VOIP
CONNECTS, TUSHAR BOSE, PRO9
INFOSERVICES PVT. LTD., GLOBAL
VALUE ADD INC., SUDHIR PAI,
GURU DORSALA, WEBCONNECT
LLC, DREAMLAND BPO, RIYAZ
SHAIKH, MOSHIN SHAIKH,
ONLINETECHSUPPORTS.NET LLC,
ANURAG GUPTA, SURINDER
KUMAR, GSVT INFOTECH PVT.
LTD., GAURAV SHARMA, VIKAS
TIWARI, MIND TREE INFOTECH
LLC, MINDTREE INFOTECH,
PAVITER SINGH, SIMRANJEET
SINGH, RAJINDER SINGH,
JASMINDER SINGH, HS DIGITAL
SOLUTIONS LLC, NK DIGITAL
SOLUTION, MOHAMMAD AASIF,
ASIF KHAN, IFN.COM INC.,
Defendants.

ORDER

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically Plaintiff Dell, Inc. ("Dell")'s Agreed Motion to Sever [#178], Notice of Voluntary Dismissal Without Prejudice [#179], and Motion for Entry of Default Judgment and Permanent Injunction [#180]. Having considered the pleadings, the relevant law, and the file as a whole, the Court now enters the following opinion and orders.

In May 2016, Dell filed this lawsuit seeking an injunction, declaratory judgment, damages, attorney's fees, and costs against thirty-three defendants. *Id.* at 49–52. Eight of these

defendants responded. Tech Fixing Center LLC answered, but was held by the Court to be in default for failing to retain counsel. *See* Order of Jan. 27, 2017 [#35]. IFN.com, Inc. objected to personal jurisdiction and was dismissed. Order of Sept. 24, 2018 [#135]. Global Value Add, Inc., Sudhir Pai, and Guru Dorsasla were severed from the case on November 28, 2018, and final judgment has been rendered against them. *See* Order of Nov. 28, 2018 [#152]; *see also* Stipulated J. Permanent Inj. [#152], *Dell, Inc. v. Global Value Add, Inc.*, No. 1:18-CV-01017-SS. Similarly, Surinder Kumar was severed from the case on August 15, 2019, and final judgment has been rendered against Kumar as well. *See* Order of August 15, 2019 [#172]; *see also* Final J. [#177], *Dell, Inc. v. Kumar*, 1:19-cv-00814-SS.

Because many of the defendants in this case reside in India, the Court permitted Dell to serve these defendants by email. *See* Order of July 12, 2017 [#69]; *see also* Order of Nov. 1, 2018 [#140]. Along with Mindtree Infotech, LLC, four of these so-called Indian defendants—Moshin Shaikh, Vikas Tiwari, Mohammad Aasif, and Asif Khan—were severed from the case on June 7, 2019, and final judgment was rendered against them. *See* Order of June 7, 2019 [#166]; *see also* Final J. [#171], *Dell, Inc. v. Shaikh*, No. 1:19-cv-00610-SS. Dell has been unable to serve eight of the other Indian defendants (the “Unserved Defendants”): Raj Mishra, Vision BPO Pvt. Ltd., Dreamland BPO, Riyaz Shaikh, GVST Infotech Pvt. Ltd., Gaurav Sharma, Ranjinder Singh, and Jasmina Singh. *See* Motion Entry Default J. [#180] at 3.

All of the remaining defendants in this case have had default entered against them for failing to plead or otherwise respond. Dell now seeks to sever two of the remaining defendants—Anurag Gupta and Onlinetechsupports.net LLC—because the parties have agreed to a stipulated judgment of a permanent injunction. *See* Agree Motion Sever [#178]. The Court GRANTS this

motion and will enter the attached consent decree in the severed case upon receipt of the filing fees.

Dell also seeks to dismiss the Unserved Defendants along with Manish Das and Abdul Kanchwala. Notice Voluntary Dismissal [#179]. It has further moved for default judgment against Tech Fixing Center LLC, Tushar Bose, Pro9 Infoservices Pvt. Ltd., Webconnect LLC, Mind Tree Infotech LLC, Paviter Singh, Simranjeet Singh, and HS Digital Solutions LLC. Motion Entry Default J. [#180]. According to Dell, these two motions operating in tandem dispose of all remaining defendants in this case, thereby permitting the Court to render a final judgment. *See id.* at 3 (“Every Defendant named in the Fourth Amended Complaint that has not previously been dismissed or had judgment entered against them is the subject of either the Consent Decree Motion, the Notice of Voluntary Dismissal, or this Motion.”). Upon review, however, the Court finds there are two defendants—MS VOIP Connects and NK Digital Solution—who have not been the subject of a final judgment and who are not covered by any of Dell’s pending motions. Accordingly, the Court dismisses Dell’s motion to dismiss and motion for entry of default judgment with leave to refile once the status of these defendants is clarified.

Accordingly,

IT IS ORDERED that Dell’s Agreed Motion to Sever [#178] is GRANTED. Defendants Anurag Gupta and Onlinetechsupports.net LLC are hereby severed from this case, and the Clerk shall care a new cause number upon the receipt of filing fees. The Consent Decree attached to Dell’s Motion shall be entered upon the creation of the severed case.

IT IS FURTHER ORDERED that Dell’s Notice of Voluntary Dismissal [#179] is DISMISSED without prejudice to refile for reasons cited in the above opinion, and

IT IS FINALLY ORDERED that Dell's Motion for Entry of Default Judgment and Permanent Injunction [#180] is DISMISSED without prejudice to refileing for reasons cited in the above opinion.

SIGNED this the thirteenth day of May 2020.



SAM SPARKS
SENIOR UNITED STATES DISTRICT JUDGE